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CHAPTER X

CHILD PROTECTION

ANY ADEQUATE PROGRAMME for the protection of children by the authorities in Shanghai seemed in the past to present almost insuperable problems. The evolution of policy in the general field of child welfare involved difficulties of finance and other obstacles sufficient to deter the stoutest heart. The high birth rate and the size of the population even in normal times meant that the city had a child population as large as that of some small countries. Housing congestion and unhygienic living quarters, together with inadequate nutrition, traceable in part to the low earnings of workers, caused literally thousands of children to live under conditions that contributed to a high death rate. If they survived they suffered in many cases chronic ill-health. If conditions were hard for the children of wage earners, they were harder still for those in families where there was unemployment, and for those who had no one to care for them.

The type of child welfare programme familiar abroad, where governments are aware of the necessity of caring for the citizens of the future and ready to appropriate large funds for that purpose, was not in the past considered possible in the International Settlement of Shanghai. The sources of the Council's income, ultimately dependent on the capacity of the people to pay, were strictly limited. The Council took the general view that "poor relief" was not feasible, since it had no control over entrance to the Settlement.[1] In practice, however, certain forms of relief were undertaken from Council funds. The Council for years made limited contributions as grants-in-aid to institutions which cared for children coming into the hands of the police—children who were lost, abandoned, abducted, exploited, ill-treated or otherwise victims of circumstance. Indeed, for long the police in Shanghai were the social workers of the Settlement. Police stations saw many a human drama in which children were concerned. Police rescued

[1] See Chapter XI.

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those who were ill-treated, took in the lost or abandoned, settled many family matters involving children.

From the early part of 1937 the Council embarked on a somewhat more concrete plan of child protection. For the programme which developed, the wider term of child welfare cannot be used, for it did not concern itself with instruction to mothers in the care of children, or provision of monetary assistance to families with children, development of kindergarten schools, or nurseries, or playgrounds—any of the "welfare" features so well understood elsewhere. Because of the special problems of Shanghai, emphasis was placed first on the field of "protection."

THE ORIGIN OF THE Council's recent concern with child protection is traceable to requests of the Slavery Committee of the League of Nations that it give attention to the problem of *mui tsai* or *pei nu,* so-called girl slaves. Through past centuries and down to the present, the prevailing poverty of China caused poor families in certain areas of the country to give their daughters to richer families better able to support them. During childhood and adolescence they are employed in domestic service, and then are married to husbands who have been found for them by their employers. It is obvious that this system provides possibilities of exploitation. Separated from their own relatives and in the control of others, these *mui tsai* can be worked very hard, even mistreated. In the view of the League of Nations Committee, there were elements in the situation suggestive of slavery. On the other hand, many instances were known of girls being well cared for in the homes to which they went. The League Committee, examining as it did many customs in different parts of the world where lack of freedom and of control over their own destinies characterised the lives of various groups, had urged on the governments in control of the regions in question the adoption of measures to alleviate the lot of the groups concerned. In the Far East, the League's views regarding *mui tsai* had been impressed on the governments of China, Hongkong and Malaya.

Accordingly, early in 1937 the Shanghai Municipal Council placed some responsibility on the Industrial and Social Division. The Chief of the Division was named "Protector of *mui tsai.*" The Division believed, however, that the task had been too narrowly

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conceived, and accordingly undertook as a first step the examination of the general question of the place of authorities in the protection of *mui tsai* and other groups of young persons "transferred into the control of others not near relatives and exploited by them."

A study was made during 1937 and 1938, delayed somewhat by the outbreak of Sino-Japanese hostilities in the latter half of 1937 and by the abnormal situation extending into 1938. A report was presented to the Council, and in November 1938 forwarded to the League of Nations for the use of its Slavery Committee. It was adopted by the Council on December 14, 1939. It recommended that a Child Protection Service be established in the Division. Some of the report's more relevant portions, chosen to show the range of the problem, follow:

"Case histories have been taken firstly of 176 girls who are *pei nu*[1] or in domestic conditions nearly allied to this: secondly of 72 girls who have been sold or mortgaged into a life of prostitution: thirdly of 27 girls bound by contract to a period of service in industrial undertakings where their earnings are the property of a contractor.

"Only a partial picture would have been presented if the study of *pei nu* only had been made, for unless the custom of transfer of girl children into the control of others than their immediate relatives and into domestic employment which is the essence of *pei nu* is seen in relation to other conditions which may have common features with this custom, there cannot be an intelligent recommendation as to administrative action regarding *pei nu*. In the question as to whether administrative action should be taken in respect of one group, the larger field must be seen.

"In all three types of transfer, whether for a longer or shorter period, money passes between the person transferring and the person to whom transferred. *Pei nu* as a rule being transferred at an early age, the amount of money passed in respect of them is small—from $20 to $30 in most cases. In respect of the girl mortgaged for a period of years into prostitution, the sum demanded is found in the studies to be higher than when a girl is disposed of outright to the brothel keeper, and in both cases more than for a *pei nu*. No girls interviewed were mortgaged into prostitution for less than $100 for a three-year period while there were several cases of girls disposed of for an indefinite period for less than this amount. Presumably some more enterprising entrepreneur, who knows how to create values, handled the girls who are mortgaged. The sum for which girls are bound into labour for two or three years is only from $30 to $45.

"It is immediately obvious that there is a wider custom of transfer into the control of others than is exemplified in the *pei nu* group. This

[1] [girl slaves -- Analyst]

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633 view was expressed in the 1937 Report on *pei nu* forwarded by the
736 Council to the League of Nations Slavery Committee and was found by
597 the Slavery Committee to coincide with a similar conception expressed to it from other sources.

567 "The Chinese Government delegate to the Sixth Committee of the
548 League of Nations Assembly in 1937 (who is Chief of the Chinese Government delegation and its representative on the Advisory Committee on Social Questions) stated that the problem of *pei nu* can best be considered as part of the larger problem of child protection. The United Kingdom Government in its official communication to the Slavery Committee also indicated that work of the protection of women and children is intermingled with the problems arising out of the *mui tsai* or *pei nu* system. The Malayan Government has accepted in principle the minority report of the Commission on *mui tsai* in Hongkong and Malaya published in 1937. This recommended repeal of existing *mui tsai* legislation, the abolition of the legal status of *mui tsai* and the introduction of entirely new legislation for child protection."

736 Even as the Shanghai study was being made and the report pre-
597 sented, it was obvious that the 1937 war had left stranded an army
633 of young people whose parents had been killed, or who were separated from their families during head-long flight from danger.
567 Some of these children were in refugee camps; others were on the streets, begging, stealing, those still surviving managing to live in some manner. By contrast, *mui tsai*, young girls in domestic employment had at least a roof over their heads, and presumably food to eat. While in no way condoning the system, Council officials believed that the first concern of a Child Protection Service should be the homeless. No special registration of *mui tsai* was recommended. The programme which was developed and details of which follow was designed to care for these children in so far as an administrative procedure may do so.

Child protection work was begun with the young people who came into the hands of the police and were in need of help. Before 1939 it was the custom for police to take to court for disposition all lost, abandoned, abducted, ill-treated and otherwise exploited children for disposition by the judge of the court. To deal constructively with the needs of these young people something more than a purely legal process appeared to be desirable. In theory the disposition of the person of any citizen, child or otherwise, should be by the legal process. But in the situation ruling in Shanghai, where the need was essentially a social one, it was felt

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that the form of court disposition could be replaced, to the advantage of the young people, by a social process. Accordingly, with the consent of the Secretary-General of the Council, police ceased to send cases of victimised children to the court, except in those instances where an adult was involved, when the court concurrently ruled as to the disposition of the child. All other cases were handed over to the Child Protection Service for the most careful handling possible under the circumstances.

The Chinese court held that the natural parents of a child in every case have a right to the child, whether exploited or otherwise. Instances occurred where a judge handed back to the care of parents girls who had been sold. The court view is based upon the relevant portion of the Civil Code. There is room for a reconsideration either of the law or of its interpretation by the court.

For the majority of those who either had no immediate relatives or were being exploited by relatives other than their parents, placement in an institution frequently represented the only possible adjustment. Every effort was made at once to find relatives or friends of a young person coming into the hands of the Service. If time was allowed to elapse, the chances of finding that link which would perhaps save the child from being alone and adrift forever might be lost. By newspapers, and by using local Chinese methods of advertising near the place where a child had strayed, the vital link was frequently established.

IN 1940, FOR THE FIRST TIME, a complete picture was obtained of the extent of lawbreaking by young people under 18 years of age. In all, 981 appeared in court on criminal charges—899 boys, 82 girls. Of this number 70 per cent were unemployed; 87 per cent were involved in some form of thieving. Twenty-one per cent had previous convictions.

There was no special procedure in the First Special District Court governing the treatment of juvenile offenders. Regulations for a special procedure of the Ministry of Judicial Administration of the Chinese Government exist, but were not in use in Shanghai, or elsewhere in China, so far as is known.[2] In response to the

[2] In Instruction No. 2257, dated May 9, 1936, the Ministry of Judicial Administration of the Chinese Government instructed the courts to temper justice with mercy and understanding in dealing with juvenile delinquents. The articles of instruction

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633 738 736 suggestion, twice brought forward by the Division, that a special procedure should be instituted, the Court expressed its readiness to co-operate, but the police stated they were unable to undertake the necessary segregation of juvenile offenders. The Division believed that in the meantime the increasing knowledge of juvenile delinquency in Shanghai, which its specialists in child protection work had gained, would be of value whenever they would be called on to play a larger part in the disposition of such cases if a special procedure could later be developed.

In 1940 a qualified social worker with special training in the psychological handling of difficult children began to make frequent visits to the municipal reformatory where she interviewed all young delinquents twice, first after their arrival in the reformatory and again just before their release. Of the 334 persons (293 boys and 41 girls) whom she interviewed in 1940, 91 per cent had been convicted of thieving in some form, and 52 per cent were orphans or had only one parent.

Boys who before or after release from the reformatory had no plans were invited to call on the social worker. Of the 201 boys seen in 1940 before their release, 53 sought help. Twenty-three—for the most part younger boys—were placed in institutions. Sixteen were sent to a vocational training school. But many older boys refused to enter institutions. Since it proved unwise to employ these boys in factories immediately upon their release from the reformatory without any rehabilitation period intervening, they were given some little financial assistance with which to start a simple business like peddling or shoemaking. If these boys showed persistence and good will, they were introduced to regular employment.

THE REMOVAL OF YOUNG PEOPLE from institutions[3] and their placement in employment served two purposes. It relieved institu-

[696] in this memorandum show a sympathetic understanding of the necessity for rehabilitation rather than punishment in the treatment of young offenders.

Article 14 reads in part as follows: "When assigning judges to try juvenile cases, the Presidents of the various Courts may not follow the rules regarding the distribution of duties for a Judicial Year, but they may assign a judge to try them from among the judges or procurators of the respective courts who has sufficient experience and mild temper as well as a profound study of the sciences of criminology, psychology, sociology and education."

[3] Standards of work in children's agencies depend on the calibre of their staffs.

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tions of the expense of caring for them, and it provided the youths with an opportunity to become useful members of society. Unfortunately there were difficulties both in discovering suitable jobs and in keeping the young people at their jobs once these had been found. Containing, as the Division did, both an Industrial Section which sought to improve standards of employment for young people, and a Child Protection Service which tried to place them, the Division would place only where conditions of employment were satisfactory. Most factories where higher types of skills could be learned were beginning to require that apprentices have the equivalent of a primary school standard. Few children from institutions reached this goal. Where employers agreed to take them, their records were not wholly successful. Out of 206 placed in employment to the end of 1940, 110 made good. Boys asked why they should work long hours in factories—"eat the bitterness," as the saying is—when they could return to an institution where they need not work. Yet 50 per cent of them persisted and showed increasing signs of stability. On the whole, therefore, the results of the experiment were till the outbreak of Pacific hostilities encouraging, and it was hoped that the Division's other efforts to extend opportunities to underprivileged boys would have even more satisfactory results.[4] A general unemployment after December 1941 cut off this means of assistance to young people.

A POSITIVE APPROACH to the problem of *mui tsai* was begun through the development of a procedure for the adoption of young people. This was felt to be important even though no express power lay with the Settlement authorities to institute a procedure. The initial report on *mui tsai* pointed out that so-called adoption is often claimed to be the basis under which a young person may be in the control of others who are not near relatives: "In Chinese life it is almost impossible to differentiate between cases of *mui tsai*, adoption, quasi-adoption, prospective daughters-in-law and

In an effort to stimulate better understanding, an initial conference was held in 1941 when such basic subjects as nutrition, recreation, and techniques in handling children were discussed. Short lecture courses in child personality and similar subjects were also given.

[4] In 1940 the Division launched an experiment in conditioning boys in a welfare camp before finding them employment. A vocational and academic programme for 80 boys over 15 years of age was put in charge of a special teacher, with the purpose of preparing these youths for permanent employment.

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633 other gradations." Very certainly in the majority of cases the 736 adoption has not been carried out in accordance with the pro- 597 visions of the Fifth Book of the Civil Code of the Government of China.[5]

These provisions do not require that adoption shall be carried out with the consent of the courts or of administrative authorities. In any event, in the absence of express powers in the hands of the Council, it was realised that any procedure which might be worked out administratively by the Child Protection Service could only be on a voluntary basis.

From the beginning of 1940 an arrangement was made with one institution which from time to time placed children in adoptive homes, that such cases would be referred to the Child Protection Service for a final approval. Follow-up visits were paid to the homes in which children had already been placed, and the results showed that in only some forty per cent of the cases were the adoptions satisfactory. It became apparent that more extensive periodical visiting was necessary, and a special social worker in the Service commenced regular visits. In the year April 1941 to March 1942, 116 homes were regularly visited. In these the situations of more than 90 children could be called thoroughly satisfactory.

Study of the satisfactory cases showed that children placed in good homes, even though often of very limited means, where they were cared for in a family atmosphere, were much better off than those remaining in institutions. No public funds for promotion

[5] Under these provisions:

The adopter must be at least twenty years older than the person to be adopted. (Art. 1073)

The relation between an adopted child and his adoptive parents is the same as that between a legitimate child and his parents, unless it is otherwise provided for by law. (Art. 1077)

An adopted child assumes the surname of the adopter. (Art. 1078)

Adoption must be effected in writing, unless the person to be adopted has been brought up as a child of the adopter since infancy. (Art. 1079)

The relation between an adopted child and his adoptive parents may be terminated by mutual agreement of the parties . . . in writing. (Art. 1080)

Where either the adoptive parent or the adopted child is found in one of the following conditions, the Court may, at the instance of the other party, terminate their adoptive relationship: (1) Where one party has ill-treated or grossly insulted the other; (2) Where one party has deserted the other in bad faith; (3) Where the adopted child has been sentenced to not less than two years' imprisonment; (4) Where the adopted child has spent money wastefully; (5) Where it has been uncertain for three years whether the adopted child is alive or dead; (6) Where other grave reasons exist. (Art. 1081)

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of a foster home programme were available. In this situation it was felt that a stimulation of the practice of adoption would be beneficial, and this policy was embarked upon.

In every case of adoption arranged or recommended by the Child Protection Service, documents of approval were given to the adoptive parents. These papers were granted only after all preliminary steps (including a medical examination and a subsequent six-month trial period) had been observed. The purpose of this procedure was to formalise adoptive relationships by official approval. It was hoped thereby eventually to create the conception that adoption in accordance with Chinese law should be encouraged.

There are other phases of the care of children which, it was felt, might rightly be termed the concern of the administration even in the peculiar situation in which the Settlement found itself. What is well known as family case work, the effort to assist a family to make adjustments and to solve its problems, was scarcely known in Shanghai, at least in any formal way. Many cases were known where children were delinquent, or begging, the root cause of which lay in the economic situation of the family. Often a child might well have been saved from a future life of crime if the family situation could have been solved. In general, the view was taken that, with the numbers of homeless children as great as they are, children with homes should not be cared for in institutions. Only the children in institutions had the attention of the authorities. The attention of certain social agencies, notably the Pullers' Mutual Aid Association, and some socially minded Chinese leaders, was turned in the direction of family case work as a means of serving the city's needy children.

THERE WAS AN ALMOST complete lack of recreational facilities for even the children of well-to-do parents, a consequence of the congestion in the city. There were some children's parks where younger children went, usually in care of *amahs* as nurses, and to which some more privileged older children also resorted. It was hoped that some beginning might be made with the provision in these of organised play under trained recreation leaders. A revival of a plan formerly instituted by the Joint Committee of Shanghai Women's Organisations could have obtained the use of open spaces

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529 741 for playgrounds whenever through building demolition or some other chance an area might be temporarily cleared.

262 741 The financing of children's institutions in a time of rapidly rising costs proved difficult. Some were stimulated at times to make efforts to improve the diet. "An egg a child a week," "some oil each day" have been aims which in some instances have been met, only to find that the cost of eggs has doubled, and that of oil trebled, so that the former ration again became the rule. There was felt to be a need for the organisation in Shanghai of a Children's Community Chest, when the citizens would be challenged to give largely and generously to its children, and all organisations caring for children might benefit. Leadership in the community to better the situation of its children was not lacking, as the extensive services for homeless children show.

736 633 735 748 THE WORSENING OF the economic situation in the city following the outbreak of Pacific hostilities was followed, inevitably, by the abandonment of many children on the streets by those unable to care for them. Institutions which down through the years had been able to care for all children whom the police had taken in, found themselves unable to take more. Their financial situation with a steeply rising cost of living and the difficulty of obtaining essential commodities in sufficient quantities precluded the enlargement of their responsibilities. The Division was therefore faced with the task of finding temporary care for the abandoned children and of evolving a general plan to deal with the issue. A camp which had been established in 1940 by the Salvation Army with the assistance of the Council to try to rehabilitate street beggars was used as the temporary place of shelter, and a programme of home finding with a staff of fifteen social workers was embarked upon.

"Home finding" had two aspects. It sought to trace the natural homes or the relatives of the abandoned children. By every conceivable device social workers tried to obtain a clue from them as to their former life. If a child had been lost, the reunion between the child and the parents if the latter could be traced was often a touching one. If the child had been abandoned, effort was made to solve the family problem in some other way, for at all costs that complete break with its own family must be avoided which must otherwise mean a lifetime of standing alone. It was not easy

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to find employment as a means of assisting the family, but a friend or relative could frequently be found who, if challenged to do so by a skilled social worker, was ready to help out. There were no public funds to draw upon as is normal family casework in western countries; but there was being developed family case work on the China pattern, an attempt to use the close family bonds between relatives to induce help of the unfortunate. This kind of friendly help of course goes on day after day without stimulus from without; the difference was that the Division tried to harness it for the help of children in the emergency. The second phase of home finding sought to apply more widely the experimental beginnings in adoption approved by the authorities, the plan referred to earlier in this chapter. With more social workers on the task and with a gradually growing sense of responsibility on the part of the community for its children, as many as fourteen applications by adoptive parents were made on one day in June 1942 to adopt children.

This much more extensive programme than formerly attempted —a programme induced only by the emergency which in eight months left hundreds of children for whom adjustment had to be found in the hands of police—proved the value of early experimental beginnings. It cannot of course be claimed that even this enlarged staff would be able to handle the situation. Hundreds of children would continue to be destitute and begging, hundreds dying on the streets.

THE REMARKABLE WORK which has been done by the Chinese Government and voluntary organisations in caring for the thousands of children deprived of parental care during large-scale hostilities in China from 1937 to the present time has certainly within it the germ of an adequate child care programme in the future. It is work which has been carried on through immense difficulties of finance in a period of inflation. In Free China, as in Shanghai, there is growing a recognition of the necessity for adequately trained social workers in child care. Many students prevented from returning to China by world hostilities and for the time being remaining in the United States and elsewhere are using the time to prepare themselves as specialists in this field. In West China a special course in training for child care work has been organised

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to commence at Ginling College in Chengtu in 1943, a co-operative effort of several educational institutions. Plans for the training of workers at present employed in children's institutions, whose initial educational standards usually are at a level such that a university course will not be possible for them, are in process of being worked out. In Shanghai special summer schools for these employed workers, men and women who have given devotedly of themselves to the children under their care, have proved useful and stimulating. From the great catastrophe which has befallen China and its children may well arise administrative and voluntary efforts which will mean a richer life for them.